



DEPT. OF TRANSPORTATION  
DOCKETS

# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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Fax (804) 698-4500 TDD (804) 698-4021

[www.deq.state.va.us](http://www.deq.state.va.us)


W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

Robert G. Burnley  
Director

(804) 698-4000  
1-800-592-5482

October 6, 2003

Docket Management Facility  
USCG-2003-14273  
U.S. Department of Transportation  
Room PL-401  
400 Seventh Street, S.W.  
Washington, D.C. 20590-0001

RE: Ballast Water Management Program for U.S. Waters (Docket Number: USCG-2003-14273, DEQ # 03-157F). — 

Dear Sir/Madam:

The Commonwealth of Virginia has completed its review of the above-referenced Federal Notice. The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of federal environmental documents and responding to appropriate federal officials on behalf of the Commonwealth. The following agencies participated in this review:

Department of Environmental Quality  
Marine Resources Commission

The Department of Game and Inland Fisheries and the Virginia Institute of Marine Science were also invited to comment.

### **Project Description and Purpose**

The U.S. Coast Guard has determined that the voluntary Ballast Water Management program is inadequate. Therefore, the Coast Guard proposes mandatory ballast water management practices for all vessels equipped with ballast tanks bound for ports or places within the U.S. and/or entering U.S. waters. These changes are proposed in order to comply with the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, and the National Invasive Species Act of 1996. The Great Lakes ballast water management program would remain unchanged.

The proposed mandatory program would require vessels equipped with ballast water tanks entering U.S. waters after operating beyond the Exclusive Economic Zone to employ one of the following ballast water management practices:

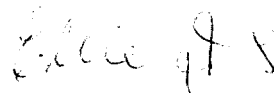
- Perform complete ballast water exchange no less than 200 nautical miles from any shore, prior to discharging ballast water in U.S. waters;
- Retain ballast water onboard the vessel;
- Use an alternative environmentally sound method of ballast water management that has been approved by the Coast Guard, prior to the vessel entering U.S. waters, or
- Discharge ballast water to an approved reception facility.

### Comments

In Virginia, effective as of November 1, 2001, the Virginia Marine Resources Commission (VMRC) adopted Regulation 4 VAC 20-395-10 *et seq.* "Ballast Water Discharge Reporting." This regulation established guidelines governing voluntary ballast water management practices to be followed by operators of commercial vessels in Virginia waters. It also established requirements and procedures for the distribution and filing of Ballast Water Control Report forms with the Commission. The VMRC states that while the proposed rule would require mandatory implementation of ballast water management practices, such a requirement appears consistent with the intent of the Commission's regulation and the Chesapeake Bay Program's commitment to substantially reduce (and where possible) eliminate the introduction of non-native species carried in ballast water. Therefore, the Commonwealth of Virginia supports the Coast Guard's efforts to prevent the introduction of nonindigenous, invasive aquatic species into waters of the United States. In addition, the DEQ-Water Division states that the proposed rule appears consistent with the Virginia Water Protection Program.

Thank you for the opportunity to review this project. For further information, please contact Anne Newsom at (804) 698-4135.

Sincerely,



Ellie Irons, Program Manager  
Office of Environmental Impact Review

### Enclosures

cc: Steve Begg, DEQ-WPS  
Laura McKay, DEQ-VCP  
Tony Watkinson, VMRC  
Tom Barnard, VIMS

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DEQ-Office of Environmental  
Impact Review


## Memorandum

### VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY WATER DIVISION

Larry G. Lawson, P.E., Director

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To: Anne Newsom  
Environmental Program Planner

From: Ellen Gilinsky, Ph. D, PWS   
VWP Permit Program Manager

Date: August 28, 2003

Subject: Ballast Water Management Program for U.S. Waters  
U.S. Department of Homeland Security/U.S. Coast Guard  
Project Number 03-157F

On behalf of the DEQ-Water Division, we have reviewed the Environmental Assessment, Request for Consistency Determination, and Proposed Rulemaking regarding the proposed Ballast Water Management Program for U.S. Waters. The proposed rules will require vessels equipped with ballast tanks that are entering U.S. Waters from abroad to implement at least one of the following practices:

- Conduct mid-ocean ballast water exchange no less than 200 nautical miles from any shore;
- Keep ballast water onboard at all times;
- Use an environmentally acceptable means of ballast water exchange approved by the Coast Guard prior to entering U.S. Waters; or
- Discharge ballast to a prior approved reception facility.

The current ballast water management program is voluntary and has not been effective in protecting against introduction of non-native invasive species due to ballast water discharges. The Coast Guard has opted to convert the rules from voluntary to mandatory in an attempt to increase the overall effectiveness of the program.

We have no objections to the proposed rules and support the prevention of introducing non-native invasive species to the Commonwealth of Virginia without causing adverse impacts to surface waters. Provided there are no adverse impacts to surface waters, the proposed rules appear to be consistent with the VWP program.



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# COMMONWEALTH of VIRGINIA

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

## ***Marine Resources Commission***

2600 Washington Avenue  
Third Floor  
Newport News, Virginia 23607

William A. Pruitt  
Commissioner

September 11, 2003

Ms. Anne B. Newsom  
Environmental Program Planner  
Dept. of Environmental Quality  
Office of Environmental Impact Review  
629 East Main St., 6<sup>th</sup> Floor  
Richmond, VA 23219

Dear Anne:

This is in response to your request for comments regarding the Coastal Zone Consistency Determination for the development of a proposed rule by the U.S. Coast Guard that would establish a national program under which vessel owners would apply ballast water management practices to prevent and control the introduction of nonindigenous species into U.S. waters.

Pursuant to Section 28.2-111 of the Code of Virginia, the Marine Resources Commission adopted Regulation 4 VAC 20-395-10 ET SEQ "Ballast Water Discharge Reporting" effective November 1, 2001. This regulation establishes guidelines governing voluntary ballast water management practices to be followed by the operators of commercial vessels in Virginia waters. It also sets forth the requirements and procedures for the distribution and filing of Ballast Water Control Report forms with the Commission. The voluntary guidelines established by the regulation are those issued by the U.S. Coast Guard as directed by the National Invasive Species Act (NISA) of 1996.

While the proposed rule would require mandatory implementation of ballast water management practices, such a requirement would appear to be consistent with the intent of the Commission's regulation and the Chesapeake Bay Program commitment to substantially reduce and where possible eliminate the introduction of non-native species carried in ballast water.

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*An Agency of the Natural Resources Secretariat*

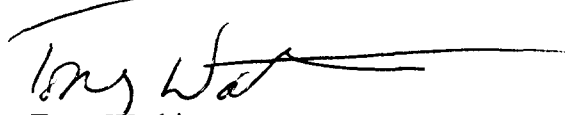
Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646 V/TDD

Ms. Anne B. Newsom  
Page 2

September 11, 2003

Should you have any questions regarding our comments, please do not hesitate to call

Sincerely,

A handwritten signature in dark ink, appearing to read "Tony Watkinson", with a long horizontal flourish extending to the right.

Tony Watkinson  
Deputy Chief, Habitat Management

TW/bac  
HM


If you cannot meet the deadline, please notify ANNE B. NEWSOM at 804/698-4135 prior to the date given. Arrangements will be made to extend the date for your review if possible. An agency will not be considered to have reviewed a document if no comments are received (or contact is made) within the period specified.

REVIEW INSTRUCTIONS:

- A. Please review the document carefully. If the proposal has been reviewed earlier (i.e. if the document is a federal Final EIS or a state supplement), please consider whether your earlier comments have been adequately addressed.
- B. Prepare your agency's comments in a form which would be acceptable for responding directly to a project proponent agency.
- C. Use your agency stationery or the space below for your comments. **IF YOU USE THE SPACE BELOW, THE FORM MUST BE SIGNED AND DATED.**

Please return your comments to:

MS. ANNE B. NEWSOM  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL IMPACT REVIEW  
629 EAST MAIN STREET, SIXTH FLOOR  
RICHMOND, VA 23219  
FAX #804/698-4319

  
\_\_\_\_\_  
ANNE B. NEWSOM  
ENVIRONMENTAL PROGRAM PLANNER

COMMENTS

No comment.

(signed) Laura B. M. Key (date) 9-30-03  
(title) \_\_\_\_\_  
(agency) \_\_\_\_\_

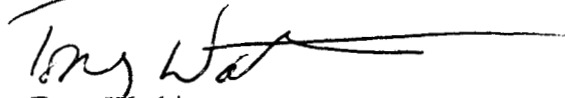


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\_\_\_\_\_  
ANNE B. NEWSOM  
ENVIRONMENTAL PROGRAM PLANNER

COMMENTS

No comment.

(signed) Laura B. McKoy (date) 9-30-03  
(title) \_\_\_\_\_  
(agency) \_\_\_\_\_